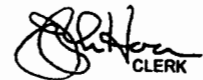


UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

FILED

JAN 28 2016


CLERK

UNITED STATES OF AMERICA, *

Plaintiff, *

vs. *

ORDER *

GUILLERMO ORTIZ, a/k/a "Memo," *

Defendant. *

Pending before the Court is Defendant Guillermo Ortiz' Motion for Reconsideration of Order dated November 21, 2014 to Deny \$4,100 Pursuant to Rule 59(e), Doc. 113. When Defendant filed a Motion claiming interest to \$4,100 that he contended was not properly taken from his residence, Doc. 105, the Court ordered the United States Attorney's Office to respond to the Motion. After the Response was filed, Defendant Ortiz filed a Reply and later filed a Supplement, Doc. 110, 111. The Court in its Memorandum Opinion dated November 21, 2014, Doc. 112, denied Ortiz the relief requested in his Motion and Supplement. Defendant Ortiz has now requested the Court to reconsider its Order.

No additional authority has been furnished to the Court by Defendant Ortiz, and in its previous Memorandum Opinion and Order Re: Forfeiture Motion, Doc. 112, the Court established a legal basis for its ruling. Ortiz' property was forfeited in state court under South Dakota law, not under 21 U.S.C. § 853¹. As the Court stated in its previous Order, "The plain language of the statute itself does not allow Ortiz to petition for relief from the forfeiture and Ortiz has failed to assert a legal basis to challenge the forfeiture in federal court. Ortiz cannot challenge a state court forfeiture

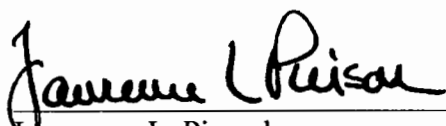
¹ Defendant pointed out mis-citation in Doc. 113 at p. 3, ¶ 12. Government's Response, Doc. 109, refers to correct cite in Brief's title but mis-cites in body of brief. 18 U.S.C. § 853 doesn't appear to exist. 18 U.S.C. Chapter 46, however, does deal with criminal forfeiture. In any event, Ortiz appears to acknowledge § 853's inapplicability in his Motion for Reconsideration Doc. 113, at p. 3, ¶ 12.

decision in a federal district court because the district court lacks subject-matter jurisdiction to make such a review under the Rooker-Feldman doctrine, *See Campbell v. Spencer*, 682 F.3d 1278 (10th Cir. 2012).” Accordingly,


IT IS ORDERED that the relief requested in Defendant Guillermo Ortiz’ Motion for Reconsideration of Order dated November 21, 2014, to Deny \$4,100 Pursuant to Rule 59(e), Doc. 113, is denied.

Dated this 28th day of January, 2016.

BY THE COURT:


Lawrence L. Piersol
United States District Judge

ATTEST:
JOSEPH HAAS, CLERK

BY: 
Deputy